

UNIT 24 SOLICITATION PREPARATION

(Blueprint 12 — 3/18/91)

_____ has satisfactorily completed on-the-job training in the Part or Parts of this Unit specified below.

Certification for Part A: Preparing invitations for bids

Duties	<ol style="list-style-type: none">1. Select and complete provisions and clauses for sealed bidding solicitations.2. Tailor or draft provisions and clauses, where appropriate.3. Assemble and prepare solicitations for issuance.
Conditions	Given Purchase Requests, acquisition histories, data on the market, and presolicitation business decisions from Units 1 through 23.
Overall Standard(s)	<p>Select the format appropriate for the acquisition (e.g., the combined CBD synopsis/solicitation or SF 1449 for commercial items). Incorporate all clauses and provisions required for the procurement, given prior decisions on whether the requirement is for a commercial item, method of procurement, type of contract, nature of goods or services being procured, method of procurement, et. al. Select or draft other terms and conditions that represent a net benefit in terms of improving the probability of attaining the Government's minimum needs on-time and at a fair and reasonable price.</p> <p>Except as otherwise directed by FAR Part 12, only incorporate terms and conditions in FAR Part 12 solicitations for commercial items that are consistent with customary commercial practice for the market. Where permitted, tailor Part 12 clauses and provisions to more closely reflect commercial practices.</p>

Evaluator	Name	_____
	Title	_____
	Date	_____

UNIT 24 SOLICITATION PREPARATION

(Blueprint 12 — 3/18/91)

Certification for Part B: Preparing requests for proposals.

Duties

1. Select and complete provisions and clauses for requesting proposals.
2. Tailor or draft provisions and clauses, where appropriate.
3. Assemble and prepare solicitations for issuance.

Conditions Same as Part A.


Overall Standard(s) Same as Part A.

Evaluator

Name _____

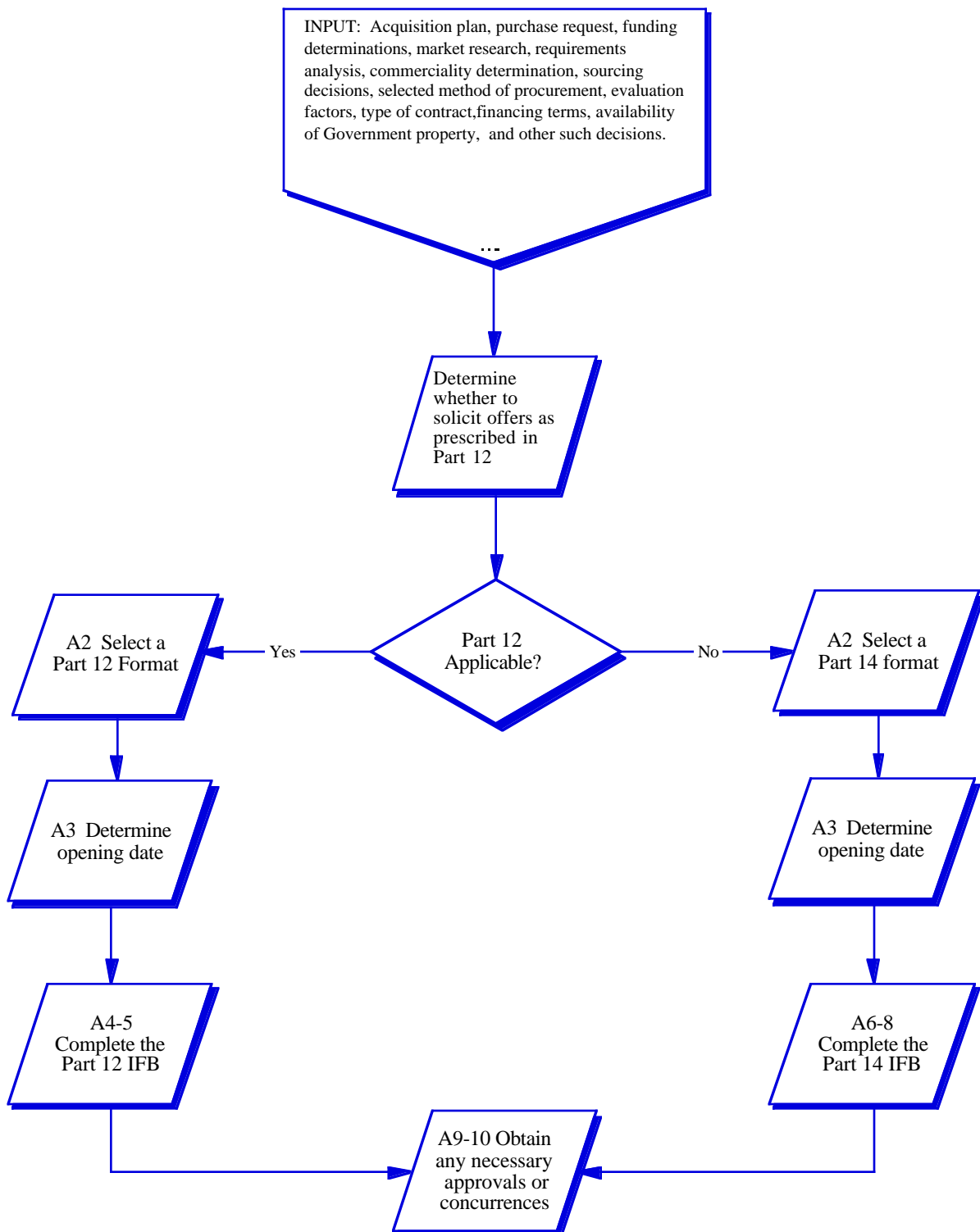
Title _____

Date _____

 The Streamlining Act states that, to the maximum extent practicable, contracts for commercial items shall contain only those terms and conditions that are:

- Necessary to implement statutes and executive orders, and
- Consistent with “standard commercial practice.” (§12.301(a), FAC 90-32, Case 94-790)

Flowchart Of Steps in Preparing Invitations for Bids




UNIT 24 SOLICITATION PREPARATION


Part A: Preparing invitations for bids

Tasks

Related Standards

1. Determine whether to solicit offers as prescribed by FAR Part 12.	A1. Solicit offers as prescribed in Part 12 when the requirement can be met by a commercial item. If the requirement is for other than a commercial item, insert the new FAR clause 52.244-6, “Subcontracts for Commercial Items and Commercial Components” in the solicitation.
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 If market research establishes that the item or service can be met by a commercial item or service (as defined in §2.101), comply with the policies in FAR Part 12 to solicit offers and make award. If the Government requirement cannot be met by a type of item or service customarily available in the market place, the policies in Part 12 do NOT apply. [§10.001(d), FAC 90-32, Case 94-790]

 If the solicitation is NOT governed by Part 12, insert the new FAR clause 52.244-6, “Subcontracts for Commercial Items and Commercial Components” in the solicitation. This clause is required in all solicitations and contracts for supplies and services other than commercial items. It provides that the contractor is not required to include in its subcontracts for commercial items any FAR provision or clause, other than those listed in the clause.

This clause instructs contractors, “to the maximum extent practicable”, to incorporate, and require its subcontractors at all tiers to incorporate, commercial items or NDI as components of items to be supplied under this contract.” Paragraph (c) states that, “Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components.” The list includes only three clauses:

- 52.222-26, Equal Opportunity (E.O. 11246);
- 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 2012(a)); and
- 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793).

Paragraph (d) states that 52.244-46 is a required flow-down clause in subcontracts for non-commercial items. [§12.502(b), Subpart 44.4, and §52.244-6, FAC 90-32, Case 94-790]


UNIT 24 SOLICITATION PREPARATION

Part A: Preparing invitations for bids

Tasks

Related Standards

<p>2. Select the format for the solicitation.</p> <p>Choices:</p> <ul style="list-style-type: none">• Combined CBD Synopsis/ Solicitation.• SF 1449 and related clauses/provisions.• Simplified Contract Format (SCF).• Uniform Contract Format (UCF).• Other formats	<p>A2. Use the Combined CBD Synopsis/Solicitation when:</p> <ul style="list-style-type: none">• Acquiring commercial items, and• The combined synopsis/solicitation would not exceed 12,000 textual characters (i.e., the solicitation is relatively simple and no lengthy addenda are necessary). <p>Use the SF 1449 to solicit offers for all other commercial items.</p> <p>Consider using the SCF in lieu of the UCF only when soliciting offers for firm-fixed-price or fixed-price with economic price adjustment contracts.</p> <p>Correctly list types of non-commercial procurements for which the Uniform Contract Format is not required (e.g., construction, A&E, shipbuilding, subsistence, etc.).</p>
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 There is a new combined CBD synopsis/solicitation for commercial items. This format is optional when:

- Acquiring commercial items, and
- The combined synopsis/solicitation would not exceed 12,000 textual characters (i.e., the solicitation is relatively simple and no lengthy addenda are necessary).

Use SF 1449 for all other solicitations of commercial items. [§12.204 and 12.603, FAC 90-32, Case 94-790]


UNIT 24 SOLICITATION PREPARATION

Part A: Preparing invitations for bids

Tasks

Related Standards

<p>3. Establish opening dates and times.</p> <p>Basis:</p> <ul style="list-style-type: none"> • Degree of urgency. • Complexity of the requirement. • Anticipated extent of subcontracting. • Whether use was made of presolicitation notices. • Geographic distribution of the bidders. • Normal mailing times for the IFB and bids. 	<p>A3. Establish a response time which affords potential offerors a reasonable opportunity to respond.</p> <p><i>Soliciting Offers for Commercial Items</i></p> <p>The opening date may following the date is solicitation issuance by as few as 15 days. When a combined CBD synopsis/ solicitation is employed, the solicitation issuance date is the same as the CBD date.</p> <p><i>Soliciting Offers for Non-Commercial Requirements</i></p> <p>When a synopsis is required, allow at least 45 calendar days between publication of the synopsis in the CBD and the opening of bids (at least 15 days between the publication date and issuance of the IFB; at least 30 days between issuance of the IFB and bid opening). Also take into account the time between transmittal of the synopsis to the CBD and its publication in the CBD (up to 10 days following transmittal of a written notice) as provided in FAR 5.203.</p>
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 When acquiring commercial items, establish solicitation response times which afford potential offerors a reasonable opportunity to respond, considering such factors as the requirement's complexity, commercial response times, availability, and urgency. The minimum is 15 days from issuance of the solicitation. If using the combined synopsis/solicitation, the solicitation is considered "issued" on the date of the CBD publication — saving another 15 days. [§5.203, 12.205(c) and 12.603(c)(3), FAC 90-32, Case 94-790]

UNIT 24 SOLICITATION PREPARATION

Part A: Preparing invitations for bids

Tasks

Related Standards

<p>4. When using SF 1449 as the cover sheet, complete the invitation for bids.</p> <p>Steps:</p> <ul style="list-style-type: none">• Prepare addenda for the provision at 52.212-1 to tailor the provision for sealed bidding; attach the addendum to the SF 1449.• If necessary, prepare addenda tailoring the clause at 52.212-4; attach the addendum to the SF 1449.• Attach the provision at 52.212-3.• Mark applicable clauses in 52.212-5; attach the marked 52.212-5 to the SF 1449.• Identify and attach any other provision or clause required by the agency FAR supplement.• Identify, prepare, and attach any other provision or clause consistent with commercial practice and necessary for the procurement.• Complete all blocks in the SF 1449.	<p>A4. Correctly prepare the SF 1449 and all attachments. Identify and incorporate all provisions and clauses required by FAR Part 12.</p> <p>Only tailor the clause at 52.212-4 when:</p> <ul style="list-style-type: none">• Data from market research demonstrates that the addenda incorporates customary commercial terms and conditions for that market, or• The prohibition on incorporating noncommercial terms has been waived in accordance with agency procedures. <p>Regardless of commercial practice, do not tailor any term or condition in the clause at 52.212-4 that implements statutory requirements (e.g., assignments, disputes, payment, invoice, other compliances, and compliance with laws unique to Government contracts).</p> <p>Correctly document any request to tailor the clause at 52.212-4 to incorporate a non-commercial term or condition.</p> <p>Correctly identify all clauses in 52.212-5 that apply to the acquisition based on FAR prescriptions for those clauses.</p>
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General



The Streamlining Act states that, to the maximum extent practicable, contracts for commercial items shall contain only those terms and conditions that are:

- Necessary to implement statutes and executive orders, and
- Consistent with “standard commercial practice.”

Hence, the FAR Part 12 requires only two provisions and two clauses in solicitations for commercial items. Notwithstanding the provision and clause prescriptions in any other part of the FAR, NO other provisions and clauses are required in such solicitations. The provisions and clauses are as follows.


- 52.212-1, Instructions to Offerors - Commercial.
- 52.212-3, Offeror Representations and Certifications - Commercial Items.
- 52.212-4, Contract Terms and Conditions - Commercial Items.
- 52.212-5, Contract Terms and Conditions Required To Implement Statutes Or Executive Orders - Commercial Items. [§12.301, FAC 90-32, Case 94-790]


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Part A: Preparing invitations for bids

Tasks

Related Standards


 In their FAR supplements, agencies may require use of other provisions and clauses only as necessary to reflect agency unique statutes applicable to the acquisition of commercial items or as may be approved by the Senior Procurement Executive or representative on the FAR Council. [§12.301(f), FAC 90-32, Case 94-790]

 Based on market research, contracting officers may tailor the provision at 52.212-1 and the clause at 52.212-4 to incorporate customary terms and conditions of the commercial market for the requirement. The FAR encourages tailoring especially if the commercial terms and conditions would be appropriate in concluding a business arrangement, satisfactory to both parties, and not otherwise precluded by law or executive order. However, contracting officers may NOT tailor terms and conditions of 52.212-4 that implement statutory requirements (e.g., assignments, disputes, payment, invoices, other compliances, and compliance with laws unique to Government contracts).

 Contracting officers may, at their discretion, incorporate other provisions and clauses — provided the additional provisions and clauses are consistent with customary commercial practice. For example, contracting officers may include provisions or clauses related to the use of:

- Indefinite delivery contracts (FAR §16.505).
- Options (§17.208).
- Recovered materials (Part 23). [§12.301(e), FAC 90-32, Case 94-790]

Incorporating FAR §52.212-1, Instructions to Offerors - Commercial Items

 This provision provides a single, streamlined set of instructions to be used when soliciting offers for commercial items.

- The provision is incorporated by reference via Block 26, SF 1449.
- You are not required to use any other provision for this purpose.
- The provision provides that bid prices must be good for 30 days. If the marketplace is volatile, consider shortening this time to that which is necessary for evaluation and award.
- Per FAR 12.302, you may tailor these instructions or provide additional instructions to adapt the solicitation to market conditions. Tailor by adding an addendum or addenda to the solicitation and contract. Indicate in Block 26 of the SF 1449 if addenda are attached. Tailoring this provision is NOT subject to the deviation procedure of FAR 1.4.
- The instructions envision “best value” discussions under FAR Part 15. Hence, this provision would need tailoring for sealed bidding — especially the sections on contract award and multiple offers.

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Part A: Preparing invitations for bids


Tasks

Related Standards


- Among potential modifications for sealed bidding —
 - Bidders must agree with all solicitation terms, conditions, and provisions to be considered responsive. (§52.212-1(b)(11))
 - Consider language from FAR 52.214-3 (Amendments), 214-5 (Submission of Bids), 214-6 (Explanation to Prospective Bidders), 52.214-12 (Preparation of Bids), and 52.214-22 (Evaluation of Bids for Multiple Awards).
 - Delete language on multiple offers. (§52.212-1(e))
 - Use language from 52.214-10 on contract award in lieu of language in 52.212-1.

[§12.301, §12.302, and §52.212-1, FAC 90-32, Case 94-790]

Incorporating FAR 52.212-2, Evaluation - Commercial Items


 A new optional provision, 52.212-2, *Evaluation - Commercial Items*, has been added to the FAR for commercial items. However, it does not apply to sealed bidding. Instead, draft an addendum for 52.212-1 which sets forth the price-related evaluation factors (if any).

Incorporating FAR 52.212-3, Offeror Representations and Certifications - Commercial Items.

 This provision provides a single, consolidated list of all certifications and representations required by statute or executive order applicable to the acquisition of commercial items. Note that there are dollar thresholds below which some of these certifications or representations do NOT have to be completed.

- Attach this provision to the solicitation for offerors to complete and return with their offer.
- You are not required to use any other provision containing a certification or representation.
- Do not tailor this provision except in accordance with Subpart 1.4, Deviations. [§12.301 and §52.212-3, FAC 90-32, Case 94-790]

Incorporating 52.212-4, Contract Terms and Conditions - Commercial Items.

 This clause includes terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practices. Block 26, SF 1449 incorporates the clause by reference.

The FAR uses the term “customary” rather than “standard” because there are no “standard” commercial terms or conditions in contracts with different vendors within any given market, let alone across all commercial markets. As a result, the drafting team crafted terms and conditions that reflect the general nature of the commercial market, utilizing many of the principles repre-


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Part A: Preparing invitations for bids

Tasks

Related Standards

sented in the Uniform Commercial Code (UCC). The Government elected not to adopt the UCC directly.


 Based on market research, contracting officers may tailor the clause at 52.212-4 to incorporate customary terms and conditions of the commercial market for the requirement. Tailor by adding addenda to the solicitation and contract. Indicate in Block 26 of the SF 1449 if addenda are attached. Tailoring this clause is NOT subject to the deviation procedure of FAR 1.4.

The FAR encourages tailoring especially if the commercial terms and conditions are appropriate in concluding a business arrangement, would be satisfactory to both parties, and not otherwise precluded by law or executive order. However, contracting officers may NOT tailor terms and conditions of 52.212-4 that implement statutory requirements (i.e., assignments, disputes, payment, invoice, other compliances, and compliance with laws unique to Government contracts).

On the other hand, you may NOT add language to 52.212-4 in a manner that is inconsistent with customary commercial practice for the item being acquired unless a waiver is approved in accordance with agency procedures. A waiver may be requested for an individual or class of contracts for that specific item. The request for waiver must:

- Describe the customary commercial practice found in the market place.
- Support the need to include the inconsistent term or condition.
- Include a determination that use of the customary commercial practice is inconsistent with the needs of the government. [§12.213, §12.301, §12.302, and §52.212-4, FAC 90-32, Case 94-790]

Incorporating 52.212-5, Contract Terms and Conditions Required To Implement Statutes Or Executive Orders - Commercial Items.

 This clause incorporates by reference other contract clauses required to implement provisions of law or executive order applicable to the acquisition of commercial items.

- Attach the clause to the solicitation.
- Do not tailor this clause except in accordance with Subpart 1.4, Deviations.
- Only the 2 clauses listed in §(a) apply to all contracts for commercial items (e.g., §52.222-3, “Convict Labor” and §52-233-3, “Protest After Award”).
- The audit rights language at §52.212-5(d) applies to all Part 15 acquisitions of commercial items.
- §(b) lists 17 FAR and FIRMR clauses that are incorporated by reference only if so indicated by the contracting officer. Use the prescriptions of those clauses to determine which (if any) apply to the acquisition.

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Part A: Preparing invitations for bids

Tasks

Related Standards

- Likewise, §(c) lists 5 clauses that are incorporated in contracts for commercial services only if so indicated by the contracting officer. Use the prescriptions of those clauses to determine which (if any) apply to the acquisition.
- §(e) overrides the flowdown provisions in cited clauses and identifies those clauses, and only those clauses, that prime contractors must flowdown to sub-contractors.
- When Part 15 requires cost information to establish the reasonableness of prices for commercial items, the contracting officer shall insert the clauses prescribed for this purpose in an addendum to the solicitation and contract. [§12.301 and §52.212-5, FAC 90-32, Case 94-790]


UNIT 24 SOLICITATION PREPARATION

Part A: Preparing invitations for bids

Tasks

Related Standards

5. When using the combined CBD synopsis/solicitation, complete the synopsis.	
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 Follow the procedures of FAR 12.603 to prepare the combined CBD synopsis/solicitation. Basically the procedure is the same as for preparing a solicitation for bids using the SF 1449 as the cover sheet, except that —

- There is no separate written solicitation.
- The synopsis at item 17 basically provides or requests the same information as is supplied and requested by the SF 1449.
- The addenda are included with the synopsis (but have to fit, along with all other parts of the synopsis, within the 12,000 character limit).
- Copies still must be posted as usual. [§12.603, FAC 90-32, Case 94-790]

UNIT 24 SOLICITATION PREPARATION

Part A: Preparing invitations for bids

Tasks

Related Standards

<p>6 Determine whether to use a master solicitation.</p>	<p>A6 Reference the date of the current master and any changes thereto in the individual solicitation.</p>
<p>7. Complete the IFB using the UCF.</p> <p>Part I—The Schedule:</p> <p>A. Solicitation/contract form. SF33 or agency equivalent.</p> <p>B. Supplies or services and prices. OF 336 or agency equivalent. For each line item, record (from Units 3 and 6):</p> <ul style="list-style-type: none"> • Item number. • National stock or part number (if any). • Name or short title. • Quantity. <p>C. Description/specifications (from Units 3 and 6).</p> <p>D. Packaging and marking. Packaging, packing, preservation, and marking requirements, if any (from Units 3 and 6).</p>	<p>A7 Correctly identify, complete, and incorporate all required clauses and provisions that apply to the procurement, given decisions made in the procurement planning process (i.e., from Units 1-23). Correctly determine which must be referenced and which must appear in full text. Select optional clauses and draft new clauses that will improve the probability of attaining the Government's minimum needs on-time and at a fair and reasonable price. Delivery or performance schedules in F should be established as provided in FAR subpart 12.1.</p>
<p>E. Inspection and acceptance. Inspection, acceptance, quality assurance, and reliability requirements (from Units 3 and 6). (See Appendix I for FAR clauses to highlight in training.)</p> <p>F. Deliveries or performance. Time, place, and method of delivery or performance (from Units 3 and 6). (See Appendix I for FAR clauses to highlight in training.)</p> <p>G. Contract administration data. Any required accounting and appropriation data; any required contract administration information or instructions other than those on the solicitation form (from Units 3 and 6).</p> <p>H. Special contract requirements (from Units 3 and 6).</p> <ul style="list-style-type: none"> • For unique and significant features. • Use to highlight a few exceptional requirements. 	

UNIT 24 SOLICITATION PREPARATION

Part A: Preparing invitations for bids

Tasks

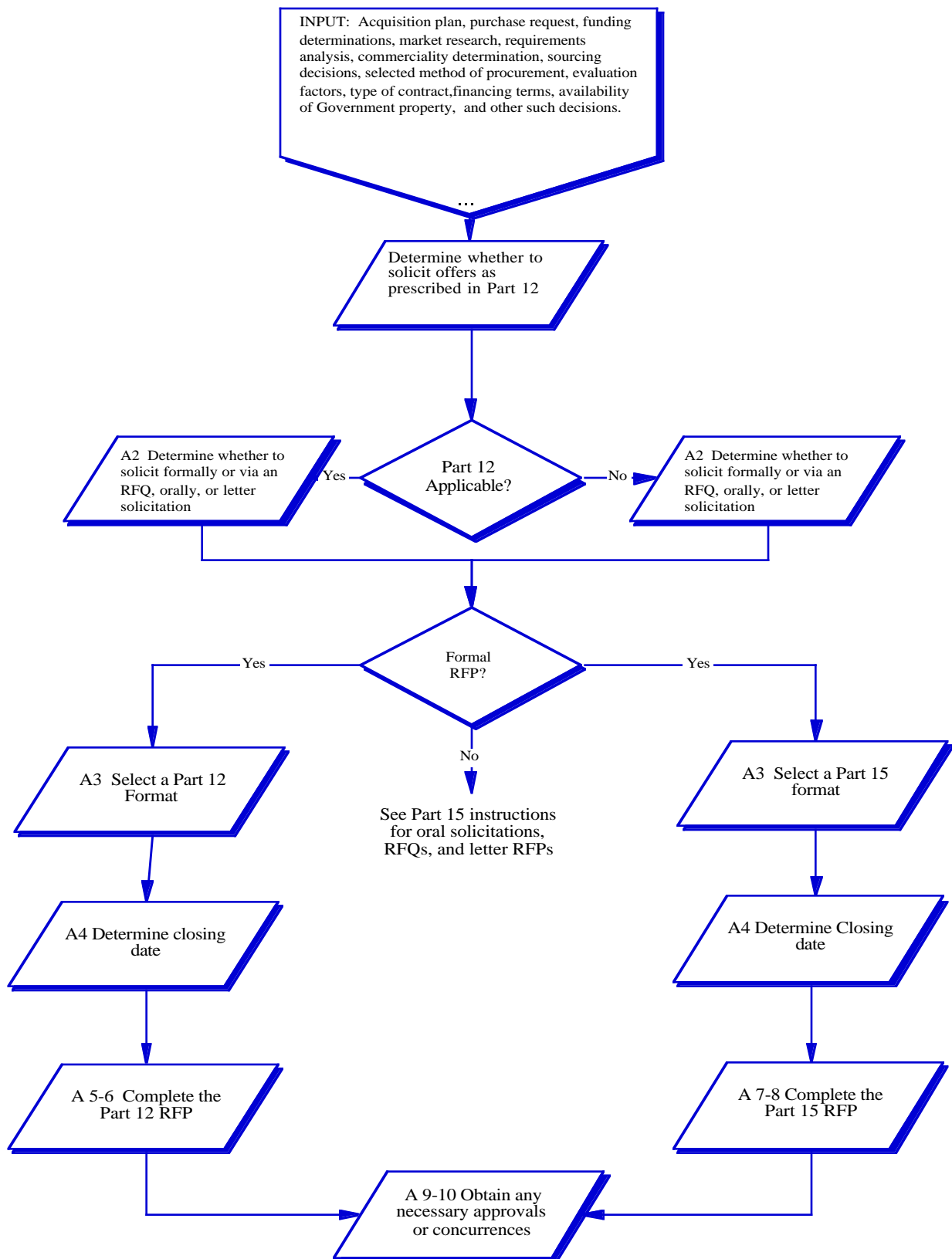
Related Standards

<p>Part II—Contract Clauses</p> <p>I. Contract clauses (from Units 3-23). (See Appendix I for FAR clauses to highlight in training.)</p> <ul style="list-style-type: none"> • Required FAR clauses. • FAR clauses that are required when applicable for the supplies or services being acquired, method of procurement, and /or type of contract. • Optional FAR clauses. • Agency required or optional clauses. • Special clauses drafted for the procurement. 	
<p>Part III—List of Documents, Exhibits, and Other Attachments</p> <p>J. List of documents, exhibits, and other attachments . (List title, date, and number of pages for each attachment.)</p>	
<p>Part IV—Representations and Instructions (from Units 3-23).</p> <p>K. Representations, certifications, and other statements of offerors. Include solicitation provisions that require representations, certifications, or the submission of other data by bidders. (See Appendix I for FAR provisions to highlight in training.)</p>	<p>If bidders annually submit representations and certifications, include the FAR clause at 52.214-29. Do not include in individual solicitations the full text of provisions that are contained in the annual representations and certifications.</p>
<p>L. Instructions, conditions, and notices to offerors. (See Appendix I for FAR provisions to highlight in training.) Include:</p> <ul style="list-style-type: none"> • Required FAR solicitation provisions. • FAR solicitation provisions that are required when applicable for the supplies or services being acquired, method of procurement, and/or type of contract. • Optional FAR solicitation provisions. • Agency required or optional solicitation provisions. • Special solicitation provisions drafted for the procurement. <p>M. Evaluation factors for award. Identify price-related factors (from Unit 15). (See Appendix I for FAR provisions to highlight in training.)</p>	<p>Among the issues to cover in training employees to select provisions for section L:</p> <ul style="list-style-type: none"> • Determine whether to establish a minimum bid acceptance period and the length of any such period. • Determine whether to authorize facsimile bids, telegraphic bids or mailgrams.

UNIT 24 SOLICITATION PREPARATION

Part A: Preparing invitations for bids

Tasks	Related Standards
8. When using the simplified contract format, complete the SF 1447.	<p>A8. Include:</p> <p>(a) The Contract Schedule, with the following elements for each line item.</p> <ul style="list-style-type: none"> • Contract line item number. • Description of supplies or services, or data sufficient to identify the requirement. • Quantity and unit of issue. • Space for the unit price and amount. • Packaging and marking requirements. • Inspection and acceptance, quality assurance, and reliability requirements. • Place of delivery, performance, and delivery dates, period of performance, and F.O.B. point. • Other item-peculiar information as necessary (e.g., individual fund citations.) <p>(b) Clauses required by the FAR and any other clauses that are absolutely necessary to the acquisition.</p> <p>(c) List of documents and attachments, if any are necessary.</p> <p>(d) Representations and Instructions:</p> <ul style="list-style-type: none"> • Provisions that require representations, certifications, and other data from offerors. • Instructions, conditions, and notices—including solicitation provisions required by FAR 14.201-6. • Evaluation factors for award.
9. Obtain agency head approval for any deviations from FAR clauses or provisions.	
10. Obtain legal, requiring activity, technical or management concurrence.	




UNIT 24 SOLICITATION PREPARATION


Part B: Preparing requests for proposals

Tasks

Related Standards

1. Determine whether to solicit offers as prescribed by FAR Part 12.	B1. Solicit offers as prescribed in Part 12 when the requirement can be met by a commercial item. If the requirement is for other than a commercial item, insert the new FAR clause 52.244-6, "Subcontracts for Commercial Items and Commercial Components" in the solicitation.
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 If market research establishes that the item or service can be met by a commercial item or service (as defined in §2.101), comply with the policies in FAR Part 12 to solicit offers and make award. If the Government requirement cannot be met by a type of item or service customarily available in the market place, the policies in Part 12 do NOT apply. [§10.001(d), FAC 90-32, Case 94-790] *See Part A, Task 1 for more details.*

 If the solicitation is NOT governed by Part 12, insert the new FAR clause 52.244-6, "Subcontracts for Commercial Items and Commercial Components" in the solicitation. *See Part A, Task 1 for more details.*

2. Determine whether to solicit by an RFQ, orally, by letter RFP, by reference to a master solicitation, or by a formal solicitation.	B2. Only solicit via an RFQ when the Government does not intend to award a contract on the basis of the solicitation but wishes to obtain market information for planning purposes. Only solicit orally when acquiring perishable subsistence or when a written solicitation would delay the acquisition to the detriment of the Government. Document the oral solicitation as prescribed in FAR 15.402(f). Only use a letter RFP when authorized to use less than full and open competition. Prepare letter contracts as prescribed in FAR 15.402(g). Do not solicit at all unless there is a definite intention to award a contract (unless issuing a solicitation for information or planning purposes, as described in Unit 7).
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UNIT 24 SOLICITATION PREPARATION

Part B: Preparing requests for proposals

Tasks

Related Standards

<p>3. If preparing a formal solicitation, select the format for the solicitation.</p> <p>Choices:</p> <ul style="list-style-type: none">• Combined CBD Synopsis/ Solicitation.• SF 1449 and related clauses/provisions.• Simplified Contract Format (SCF).• Uniform Contract Format (UCF).• Other formats	<p>B3. Use the Combined CBD Synopsis/Solicitation when:</p> <ul style="list-style-type: none">• Acquiring commercial items, and• The combined synopsis/solicitation would not exceed 12,000 textual characters (i.e., the solicitation is relatively simple and no lengthy addenda are necessary). <p>Use the SF 1449 to solicit offers for all other commercial items.</p> <p>Consider using the SCF in lieu of the UCF only when soliciting offers for firm-fixed-price or fixed-price with economic price adjustment contracts.</p> <p>Correctly list types of procurements for which the Uniform Contract Format is not required (e.g., construction, A&E, ship-building, subsistence, etc.).</p>
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 There is a new combined CBD synopsis/solicitation for commercial items. *See Part A, Task 2 for more details.*


UNIT 24 SOLICITATION PREPARATION

Part B: Preparing requests for proposals

Tasks

Related Standards

<p>4. Establish closing date and time.</p> <p>Basis:</p> <ul style="list-style-type: none"> • Degree of urgency. • Complexity of the requirement. • Anticipated extent of subcontracting. • Whether use was made of presolicitation notices. • Geographic distribution of the offerors. • Normal mailing times for the RFP and offers. 	<p>B4. Establish a response time which affords potential offerors a reasonable opportunity to respond.</p> <p><i>Soliciting Offers for Commercial Items</i></p> <p>The closing date may following the date is solicitation issuance by as few as 15 days. When a combined CBD synopsis/ solicitation is employed, the solicitation issuance date is the same as the CBD date.</p> <p><i>Soliciting Offers for Non-Commercial Requirements</i></p> <p>When a synopsis is required, allow at least 45 calendar days between publication of the synopsis in the CBD and the closing date for proposal submission (at least 15 days between the publication date and issuance of the RFP; at least 30 days between issuance of the RFP and the closing date). Also take into account the time between transmittal of the synopsis to the CBD and its publication in the CBD (up to 10 days following transmittal of a written notice) as provided in FAR 5.203.</p>
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 When acquiring commercial items, establish solicitation response times which afford potential offerors a reasonable opportunity to respond, considering such factors as the requirement's complexity, commercial response times, availability, and urgency. *See Part A, Task 1 for more details.*

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Part B: Preparing requests for proposals


Tasks

Related Standards

<p>5. When using SF 1449 as the cover sheet, complete the request for proposals.</p> <p>Steps:</p> <ul style="list-style-type: none"> • If necessary, prepare addenda tailoring the provision at 52.212-1; attach the addendum to the SF 1449. • If necessary, prepare addenda tailoring the clause at 52.212-4; attach the addendum to the SF 1449. • Attach the provision at 52.212-3. • Mark applicable clauses in 52.212-5; attach the marked 52.212-5 to the SF 1449. • Identify and attach any other provision or clause required by the agency FAR supplement. • Identify, prepare, and attach any other provision or clause consistent with commercial practice and necessary for the procurement. • Complete all blocks in the SF 1449. 	<p>A5. Correctly prepare the SF 1449 and all attachments. Identify and incorporate all required provisions and clauses in FAR Part 12.</p> <p>Only tailor the clause at 52.212-4 when:</p> <ul style="list-style-type: none"> • Data from market research demonstrates that the addenda incorporates customary commercial terms and conditions for that market, or • The prohibition on incorporating noncommercial terms has been waived in accordance with agency procedures. <p>Regardless of commercial practice, do not tailor any term or condition in the clause at 52.212-4 that implements statutory requirements (i.e., assignments, disputes, payment, invoice, other compliances, and compliance with laws unique to Government contracts).</p> <p>Correctly document any request to tailor the clause at 52.212-4 to incorporate a non-commercial term or condition.</p> <p>Correctly identify all clauses in 52.212-5 that apply to the acquisition based on FAR prescriptions for those clauses.</p>
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GENERAL —see Part A, Task 4.

Incorporating 52.212-1, Instructions to Offerors - Commercial Items —see Part A, Task 4.

 The instructions envision “best value” discussions under FAR Part 15. Hence, this provision would need tailoring for award to the lowest price offer from a responsible offeror that meets the solicitation’s minimum criteria for acceptability.

Incorporating 52.212-2, Evaluation - Commercial Items — see the Function : Non-Price Evaluation Factors.

Incorporating 52.212-3, Offeror Representations and Certifications - Commercial Items — see Part A, Task 4.

Incorporating 52.212-4, Contract Terms and Conditions - Commercial Items — see Part A, Task 4.

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Incorporating 52.212-5, Contract Terms and Conditions Required To Implement Statutes Or Executive Orders - Commercial Items — see Part A, Task 4.

6. When using the combined CBD synopsis/solicitation, complete the synopsis.	
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 Follow the procedures of FAR 12.603 to prepare the combined CBD synopsis/solicitation. *See Part A, Task 5 for more details.*

7. Complete the RFP using the UCF.	
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Part I—The Schedule (from Units 3, 6, and 7):

- A. Solicitation/contract form. SF 18, SF33, or agency equivalent.
- B. Supplies or services and prices. OF 336 or agency equivalent. For each line item, record:
 - Item number.
 - National stock or part number (if any).
 - Name or short title.
 - Quantity.
- C. Description/specifications (From Units 3, 6, and 7).
- D. Packaging and marking. Packaging, packing, preservation, and marking requirements, if any (from Units 3, 6, and 7).
- E. Inspection and acceptance. Inspection, acceptance, quality assurance, and reliability requirements (from Units 3, 6, and 7). (See Appendix II for FAR clauses to highlight in training.)
- F. Deliveries or performance. Time, place, and method of delivery or performance (from Units 3, 6, and 7). (See Appendix II for FAR clauses to highlight in training.)
- G. Contract administration data. Any required accounting and appropriation data; any required contract administration information or instructions other than those on the solicitation form (from Units 3, 6, and 7).
- H. Special contract requirements.
 - For unique and significant features.
 - Use to highlight a few exceptional requirements (from Units 3, 6, and 7).

<p>B7. Correctly identify and complete all required FAR clauses and provisions that apply to the procurement, given decisions made in the procurement planning process (i.e., from Units 1-23). (For on-the-job training, also select all required agency clauses and provisions that apply to the procurement). Select optional clauses and draft new clauses that will improve the probability of attaining the Government's minimum needs on-time and at a fair and reasonable price.</p>
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Correctly determine which clauses and provisions must be referenced and which must appear in full text.

Delivery or performance schedules in F should be established as provided in FAR subpart 12.1. Do not normally specify delivery or performance schedules that may require overtime at Government expense.

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<p>Part II—Contract Clauses (from Units 3-23).</p> <p>I. Contract clauses. (See Appendix II for FAR clauses to highlight in training.) Include:</p> <ul style="list-style-type: none"> • Required FAR clauses. • FAR clauses that are required when applicable for the supplies or services being acquired, method of procurement, and/or type of contract. • Optional FAR clauses. • Agency required or optional clauses. • Special clauses drafted for the procurement. 	
<p>Part III—List of Documents, Exhibits, and Other Attachments</p> <p>J. List of documents, exhibits, and other attachments. (List title, date, and number of pages for each attachment.)</p>	
<p>Part IV—Representations and Instructions (from Units 3-23).</p> <p>K. Representations, certifications, and other statements of offerors. Include solicitation provisions that require representations, certifications, or the submission of other data by bidders. (See Appendix II for FAR provisions to highlight in training.)</p> <p>L. Instructions, conditions, and notices to offerors. (See Appendix II for FAR provisions to highlight in training.) Include:</p> <ul style="list-style-type: none"> • Required FAR solicitation provisions. • FAR solicitation provisions that are required when applicable for the supplies or services being acquired, method of procurement, and/or type of contract. • Optional FAR solicitation provisions. • Agency required or optional solicitation provisions. • Special solicitation provisions drafted for the procurement. <p>M. Evaluation factors for award. (See Appendix II for FAR provisions to highlight in training.) Identify selection factors (from Units 15 and 16).</p>	<p>B. (Part IV). Instruct prospective offerors to submit technical proposals in severable parts, with (at minimum) separation of technical and cost/pricing data, where this will improve the Government's efficiency in reviewing the proposals.</p> <p>If offerors annually submit representations and certifications, include the FAR clause at 52.215-35. Do not include in individual solicitations the full text of provisions that are contained in the annual representations and certifications.</p>

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<p>8 When using the simplified contract format, complete the SF 1447.</p>	<p>B8 Include:</p> <p>(a) The Contract Schedule, with the following elements for each line item.</p> <ul style="list-style-type: none"> • Contract line item number. • Description of supplies or services, or data sufficient to identify the requirement. • Quantity and unit of issue. • Space for the unit price and amount. • Packaging and marking requirements. • Inspection and acceptance, quality assurance, and reliability requirements. • Place of delivery, performance, and delivery dates, period of performance, and F.O.B. point. • Other item-peculiar information as necessary (e.g., individual fund citations.) <p>(b) Clauses required by the FAR and any other clauses that are absolutely necessary to the acquisition.</p> <p>(c) List of documents and attachments, if any are necessary.</p> <p>(d) Representations and Instructions:</p> <ul style="list-style-type: none"> • Provisions that require representations, certifications, and other data from offerors. • Instructions, conditions, and notices—including solicitation provisions required by FAR 14.201-6. • Evaluation factors for award.
<p>9. Obtain agency head approval for any deviations from FAR clauses or provisions.</p>	
<p>10. Obtain legal, requiring activity, technical or management concurrence.</p>	


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OTHER CHANGES IN SOLICITATION PROVISIONS AND CLAUSES

 The Federal Acquisition Streamlining Act repealed the requirement that "every contract or agreement" express the condition that certain officials shall not benefit from the award of that contract or agreement. This condition had been expressed in FAR clause 52.203-1. The clause has been deleted, along with the related statements of policy in FAR 3.102 through 3.102-2. The criminal provisions found at 18 U.S.C. 431 and 432 remain in effect. (§3.102 through 3.102-2 and 52.203-1, FAC 90-30, Case 94-802)


 The clause at 52.212-4 includes no terms and conditions related to technical data. Except as provided by agency-specific statutes, acquire only the technical data and the rights in that data customarily provided to the public with a commercial item or process. Contracting officers shall presume that data delivered under a contract for commercial items was developed exclusively at private expense. When a contract for commercial items requires the delivery of technical data, include appropriate provisions and clauses delineating the rights in the technical data in an addenda to the solicitation and contract (see Part 27 or agency FAR supplements) [§12.211, FAC 90-32, Case 94-970]


 The clause at 52.212-4 includes no terms and conditions related to computer software. Acquire commercial computer software or commercial computer software documentation under licenses customarily provided to the public to the extent such licenses are consistent with Federal law and otherwise satisfy the Government's needs. The Government shall have only those rights specified in the license contained in any addendum to the contract.

Generally, do not require offerors and contractors to—

- Furnish technical information related to commercial computer software or commercial computer software documentation that is not customarily provided to the public; or
- Relinquish to, or otherwise provide, the Government rights to use, modify, reproduce, release, perform, display, or disclose commercial computer software or commercial computer software documentation except as mutually agreed to by the parties.

[§12.212, FAC 90-32, Case 94-970]

 There is no covenant against contingent fees in contracts for commercial items. (§3.404, FAC 90-32, Case 94-790)


 There is a new Alternate I for the clause at 52.203-6, Restrictions on Subcontractor Sales to the Government. This Alternate applies when contracting for commercial items. The clause basically prohibits a prime contractor from entering into agreements with actual or prospective subcontractors from restricting direct sales by the subcontractor to the Government (or acting in any other manner to accomplish that purpose). Under the Alternate, the prohibition applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s). [§3.503-2 and §52.203-6, FAC 90-32, Case 94-790]


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 There are no requirements in contracts for commercial items to establish procedures for preventing and detecting violations of the anti-kickback act. [§3.502-3, FAC 90-32, Case 94-790]

 As prescribed by FAR §19.202-5 and §19.304, the new provision at FAR 52.219-1, “Small Business Program Representations”, replaces the following prior provisions:

- 52.219-1, Small Business Concern Representation
- 52.219-2, Small Disadvantaged Business Concern Representation
- 52.219-3, Women-Owned Small Business Representation
- 52.219-22, SIC Code and Small Business Size Standard [FAC 90-32, Case 94-780]

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